

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST
FOR REVIEW BY:

DONALD BROWN

Petitioner.

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CHARGE NO.: 2009CP0923

EEOC NO.: N/A

ALS NO.: 10-0181

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee V. Freeman, and Charles E. Box presiding, upon Donald Brown's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge 2009CP0923; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, WHEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

LACK OF JURISDICTION

In support of which determination the Commission states the following findings of fact and reasons:

1. On September 23, 2008, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged in his charge that River Oak Public Safety Department² denied him the full and equal access of its facilities and services because of his age, 59 (Count A), race, Black (Count B), sex, male (Count C), physical disability, neuropathy (Count D), military status, veteran (Count E), and ancestry, Native American (Count F), in violation of Section 5-102(A) of the Illinois Human Rights Act ("Act").
2. On May 22, 2009, the Respondent dismissed the Petitioner's charge for Lack of Jurisdiction. On June 23, 2009, the Petitioner filed a timely Request for Review. On July 30, 2009, the Commission entered an order vacating the Respondent's dismissal of the charge and remanded the Charge to the Respondent for further investigation. On October 1, 2009, the

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

² The Petitioner named "River Oak Public Safety Department" in his charge. However the Respondent determined that the correct legal name of this entity is "IPC International Corporation".

Respondent again dismissed the Petitioner's charge for Lack of Jurisdiction. On November 3, 2009, the Petitioner filed a timely Request for Review. On December 14, 2009, the Commission again entered an order vacating the Respondent's dismissal of the charge and remanded the Charge to the Respondent for further investigation. On February 16, 2010, the Respondent dismissed the Petitioner's charge for Lack of Jurisdiction. On March 12, 2010, the Petitioner filed this timely Request.

3. At the outset, the Commission finds that the parties to this Request agree that the correct legal name of the respondent to the underlying charge is IPC International Corporation ("IPC") and not River Oak Public Safety Department ("River Oak") as the Petitioner incorrectly named in his initial charge of discrimination.
4. River Oak a/k/a IPC is a private company that contracts to provide security services to shopping centers and malls. At the time of the events alleged in the Petitioner's charge, River Oak a/k/a IPC had contracted to provide security for the River Oaks Center, which operates as a shopping center in Calumet City, Illinois.
5. On April 24, 2008, the Petitioner entered Deb Shops, which is a women's clothing store in the River Oaks Center.
6. The Petitioner alleged in his charge that he was removed from Deb Shops by River Oak a/k/a IPC security personnel at the request of Deb Shops management.
7. In his Request, the Petitioner argues that the Respondent's dismissal should be reversed because the Respondent's investigator failed to take into account that the correct legal name of the respondent to the underlying charge was IPC. The Petitioner requests that his charge be assigned to a new investigator. The Petitioner further states he amended his charge to name IPC as the proper legal name for respondent to his underlying charge. The Petitioner attached the amended charge to his Request.
8. In its Response, the Respondent asks the Commission to sustain its dismissal of the Petitioner's charge for Lack of Jurisdiction. The Respondent argues that River Oak a/k/a IPC is not a "place of public accommodation" under § 5/5-101 of the Act. The Respondent contends that River Oak a/k/a IPC's services are not offered to the general public. Therefore, the Respondent argues that River Oak a/k/a IPC does not qualify as a place of public accommodation under the Act.

Conclusion

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for Lack of Jurisdiction because River Oaks/aka IPC is not a . . . "place of public accommodation" within the meaning of the Act. See 775 ILCS §§ 5/5-101(A)(1)-(13) (West 2010).

Section 5-101 of the Act defines a "place of public accommodation" as a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodation are extended, offered, sold, or otherwise made available to the public.

Section 5-101(A)(1) - (13) provides an inexhaustive list of various classes of entities considered to be places of public accommodation under the Act. When a statute lists several classes of persons or things but provides that the list is not exhaustive, the class of unarticulated person or things will be interpreted as those "others such like" the named persons or things." See Board of Trustees of Southern Illinois University v. Department of Human Rights, 159 Ill.2d 206, 211, 201 Ill.Dec. 96, 636 N.E.2d 528 (1994).

In this case, there is no evidence that River Oak a/k/a IPC is "such like" any of the classes of entities specifically enumerated in the Act as places of public accommodation. River Oak a/k/a IPC is a private security firm whose services are not extended, offered, sold, or otherwise made available to the general public. The Petitioner has not alleged that he attempted to access River Oak's a/k/a IPC's facilities, nor is there evidence that River Oak a/k/a IPC maintains any facilities that are open to the public. Therefore, the Respondent properly determined that River Oak a/k/a IPC is not a place of public accommodation as defined by the Act.

Finally, the Petitioner attaches to his Request a *First Amended Charge of Discrimination* dated March 12, 2010. This Amended Charge constitutes a completely new charge that was never properly filed with the Respondent pursuant to 775 ILCS 5/7A-102(A) of the Act. On a request for review, the Commission is limited to the allegations in the Petitioner's original charge. See Deen v. Lustig, 337 Ill.App.3d 294, 305-06, 785 N.E.2d 521 (4th Dist. 2003). Therefore, the Commission cannot consider the allegations of the *Amended Charge of Discrimination* on this Request.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show the Respondent's dismissal of his charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

WHEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and IPC International Corporation, a/k/a River Oak Public Safety Department, as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 3rd day of November 2010.

Commissioner David Chang

Commissioner Marylee V. Freeman

Commissioner Charles E. Box